

manded within one year after the passing of this act.

ISAAC WEAVER, *junior, Speaker
of the House of Representatives.*

SAMUEL MACLAY, *Speaker
of the Senate.*

APPROVED—April the second, 1802 :

THOMAS M'KEAN, *Governor
of the Commonwealth of Pennsylvania.*

CHAPTER LXXV.

An ACT to settle the controversies arising from contending claims to lands within that part of the territory of this Commonwealth, north and west of the rivers Ohio and Allegheny, and Conewango creek.

WHEREAS, by the ninth section of an act of the general assembly, passed the third day of April, one thousand seven hundred and ninety-two, entitled "An Act for the sale of the vacant lands within this commonwealth," it is enacted, that no warrant or survey to be issued or made in pursuance of the said act, for lands lying north and west of the rivers Ohio and Allegheny, and Conewango creek, shall vest any title in or to the lands therein mentioned, unless the grantee has, prior to the date of such warrant, made or caused to be made, or shall within the space of two years next after the date of the same, make or cause to be made an actual settlement

settlement thereon, by clearing, fencing and cultivating at least two acres for every hundred acres contained in one survey, erecting thereon a messuage for the habitation of man, and residing, or causing a family to reside thereon for the space of five years next following his first settlement of the same, if he or she shall so long live; and in default of such actual settling and residence, it shall and may be lawful to and for this commonwealth to issue new warrants to other actual settlers, for the said lands, or any part thereof, reciting the original warrants, and that such actual settlements and residence have not been made in pursuance thereof, and so as often as defaults shall be made for the time and in the manner aforesaid, which new grants shall be under and subject to all and every the regulations contained in this act; provided that if any such actual settler, or any grantee in any such original or succeeding warrant, shall by force of arms of the enemies of the United States, be prevented from making such actual settlement, or be driven therefrom, and shall persist in his endeavors to make such actual settlement as aforesaid, then in either case, he and his heirs shall be entitled to have and hold the said lands in the same manner as if the actual settlement had been made and continued: And whereas applications have been made and are making to the land-office for new warrants, in cases where the applicants are of opinion that the original warrantees are barred from claiming title by their own default, in not complying with the conditions required in the section above recited; and although it appears from the act aforesaid, that the commonwealth regarded a full compliance with those conditions of settlement, improvement and residence, as an indispensable part of the purchase or consideration of

of the lands so granted, yet as much confusion might arise if the state were to continue to grant lands which in consequence of former acts may have become the property of others: And whereas it appears on the one hand, by the representations of the agents of certain companies called the Holland company and the Population company, to the legislature of this commonwealth, that they complain of certain lawless men having intruded on the lands within the claim of the said companies, which claim appears to extend over the greater part of the territory of this commonwealth, situate north and west of the rivers Ohio and Allegheny, and Conewango creek, praying for the interposition of the legislature, and stating that the claims of the said companies arise from warrants and patents duly applied for and fairly issued and granted by the officers of the land-office of this commonwealth, under the provisions of the act aforesaid; and on the other hand, it appears that petitions and representations have also been made to the legislature of this commonwealth, by and on the part of a number of persons calling themselves actual settlers, and stating that they have settled and improved a considerable part of the land lying within the claims of the aforesaid companies, in consequence of the act aforesaid inviting them so to do, that in most instances, when they began their improvements, the lands were, to the best of their knowledge, vacant and unoccupied, and that since their settlement they have been much harassed and threatened by the agents of the companies aforesaid: And whereas it is indispensibly necessary that the peace of that part of the state should be preserved, and complete justice done to all parties interested, as speedily and effectually as possible: And whereas it hath

been intimated to the legislature, that from the present distracted and agitated state of the public mind between those conflicting claims in that part of the state, a fair and impartial trial cannot be obtained where so many persons are directly or indirectly interested in the event of the decision: And whereas the companies aforesaid, by their application to the supreme court of this commonwealth, for a mandamus to compel the secretary of the land-office to complete their titles, did endeavor to put the question between them and this commonwealth fairly to issue before the judiciary: And whereas it is just and proper that the questions both of law and of fact, arising under the act aforesaid, should be fully, fairly and speedily heard and decided, and the validity of all those titles that have been issued under certain certificates of justices of the peace within the territory aforesaid, known by the name of prevention certificates determined, as well for the direction of the officers of the land-office, on behalf of this commonwealth, as for settling the existing disputes between such grantees as have omitted or neglected to make the settlements, improvements and residence enjoined by the act aforesaid, and the persons actually in possession of the same lands, and claiming under the provisions of the same act: Therefore,

Section 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That* at some time and place (not exceeding three months from the first day of the month of April of the present year) as shall be most convenient to the judges of the supreme court of this commonwealth; or the majority of them, it shall be

The judges of the supreme court to meet together with- in 3 months from the 1st of April and de- vise a form of

be the duty of the said judges, and they are hereby enjoined and required to meet together and devise some method, either by means of a feigned issue or otherwise, as in their judgment shall seem best, of bringing before a court and jury, to be holden as herein after is directed, the following questions respecting the claims to land within that part of the territory of this state north and west of the rivers Ohio and Allegheny, and Conewango creek, to wit: Are warrants heretofore granted under the act of the third day of April, one thousand seven hundred and ninety-two, valid and effectual in law, against this commonwealth, so as to bar this commonwealth from granting the same land to other applicants under the act aforesaid, in cases where the warrantees have not fully and fairly complied with the conditions of settlement, improvement and residence required by the said act, at any time before the date of such warrants respectively, or within two years after? Are the titles that have issued from the land-office under the act aforesaid, whether by warrant or patent, good and effectual in law against this commonwealth or any person claiming under the act aforesaid, in cases where such titles have issued on the authority, and have been grounded upon the certificates of two justices of the peace, usually called prevention certificates, without any other evidence being given of the nature and circumstances of such prevention, whereby, as is alleged, the conditions of settlement, improvement and residence required by the said act, could not be complied with? And so soon as the said judges have devised the form in which the questions above stated, shall be brought to a hearing and decision before a court and jury as aforesaid, they shall transmit the same to the Governor of this commonwealth,

action for trying and determining certain proposed questions relative to disputed titles to lands N. & W. of the Ohio, Allegheny and Conewango creek,

and transmit the same to the Governor, &c.

whose

whose duty it shall be, with the assistance of the attorney-general of this commonwealth, to carry the same into effect without delay.

Sec. 2. Be it enacted by the authority aforesaid, That for the purpose of hearing and deciding on the questions aforesaid, and the facts relating thereto, a jury shall be summoned according to the method to be appointed by the judges aforesaid, consisting of the usual number of disinterested persons, inhabitants of the counties of Northumberland or Lycoming, which jury shall be summoned, impanelled and sworn, or affirmed, at the court-house at Sunbury, in the said county of Northumberland, at such time as to the said judges, or a majority of them, shall be most convenient, provided the same be not deferred beyond the first Monday in December next, at which time and place the judges of the supreme court aforesaid, or the majority of them, shall meet for the purpose of hearing and trying the questions aforesaid, and the facts relating thereto, in conjunction with the said jury, in the usual manner, at which trial and hearing it shall be competent to the said jury, under the constitutional direction of the court, to decide upon the law and upon the facts; and if they think fit, to bring in a general verdict thereon; and it shall also be competent to any person party in the controversy, to offer evidence of the nature and circumstances of the prevention certificates aforesaid, and of the circumstances of the country at the time to which the said certificates relate, and also of every other fact tending to illustrate the questions aforesaid, or to induce a full investigation and fair decision thereon, which the court shall consider as evidence competent to be offered according to the usual rules of law.

Sec. 3.

In what manner said questions are to be decided.

Sec. 3. *Be it enacted by the authority aforesaid,* That it shall be the duty of the said judges, at their meeting aforesaid, within three months from the first day of April next, to devise and direct in what manner and under what circumstances parties shall be admitted to the said suit, and what notice or notices shall be respectively given relating to the same; and they shall have power also to direct the secretary of the land-office to attend at the said trial, with such books, papers and documents as they may think fit to specify or he may deem material to be produced and consulted thereat; and it shall be the duty of the said judges to certify the verdict of the jury and the judgment of the court on the trial aforesaid, to the Governor of this commonwealth, previous to the meeting of the next legislature.

Of the admission of parties to the suit, the notice necessarily to be given, &c.

Sec. 4. And in order to prevent the confusion that would arise from issuing different warrants for the same land, and to prevent law suits in future respecting grants from the land-office under the aforesaid act of April the third, one thousand seven hundred and ninety-two, *Be it enacted by the authority aforesaid,* That from and after the passing of this act, the secretary of the land-office shall not grant any new warrant for land which he has reason to believe hath been already taken up under a former warrant, but in all such cases he shall cause a duplicate copy of the application to be made, on which duplicate copy he shall write his name, with the day and year in which it was presented, and he shall file the original in his office, and deliver the copy to the party applying: *Provided always,* That on every application so to be made and filed, shall be certified on the oath or affirmation of one disinterested witness, that

The secretary of the land-office not to grant a new warrant for lands for which warrants have already been issued; what he is to do in such cases.

the person making such application, or in whose behalf such application is made, is in actual possession of the land applied for, and such certificate shall mention also the time when such possession was taken, and the application so filed in the secretary's office, shall be entitled to the same force and effect, and the same priority in granting warrants to actual settlers, as though the warrants had been granted at the time when the applications were filed; and should the decision of the court and jury, at the trial aforesaid, be in favor of the claims of the actual settlers, the secretary of the land-office shall proceed to grant the warrants, upon the purchase money being paid, according to the priority of the applications filed in his office.

Sec. 5. *Be it enacted by the authority aforesaid,* That it shall be lawful for the Governor of this commonwealth to appoint not more than two counsel learned in the law, to assist the attorney-general at the said trial, on the part of this commonwealth.

The Governor empowered to appoint counsel to assist the attorney-general at said trial.

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